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July 10, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Memorandum of Ex Parte Communication

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-A325-Lobby
Washington, D.C. 20554

EX PARTE OR LATE FILED

Dear Ms. Salas:

Re: CC Docket No. 96-98, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996

On Monday, July 9, 2001, Gary Phillips – General Attorney, Fred Goodwin – Executive Director, Federal Regulatory and the undersigned met with Commission representatives regarding the above-listed proceeding. Participants from the Commission were Jeremy Miller, Senior Attorney and Julie Veach – Attorney Advisor, both from the Policy Division and Gregory Vadas – Attorney Advisor, Tom Navin - Attorney and Stacy Jordan - Industry Economist, all from the Wireless Bureau.

The discussion focused on CMRS providers inquiries regarding converting special access services to UNEs, and, in particular, EELs. SBC described its view that CMRS providers are not eligible for "EELs" because an EEL is a loop/transport combination, and CMRS providers do not use ILEC facilities that fit the definition of those facilities. Additionally, SBC described its position that the connection between a CMRS provider's cell site and MTSO is not interoffice transport because: (1) a cell site is not a switch or wire center; and (2) interoffice transport facilities are facilities that connect ILEC end offices or an ILEC end office with a requesting carrier's end office (citing paragraphs 440, 443 and 447 of the *Local Competition Order*). SBC also referenced paragraph 553 of the *Local Competition Order*, which reads in part, "We conclude that in a section 251 (c) (3) access situation, the new entrant should pay all of the economic costs of a meet point arrangement."

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SBC noted that, notwithstanding the above-listed definitions, the Commission has never conducted an impairment analysis for CMRS providers, and that, given the fundamental differences between mobile and landline services, it must do so before considering additional unbundling obligations. In conclusion, SBC stated that a requesting carrier may not convert a portion of an end-to-end special access facility and thereby connect a UNE to a special access service, unless that carrier itself combines the UNE and the service in its collocation space. The attached material was distributed at the meeting.

We are submitting the original and one copy of this Memorandum to the Secretary in accordance with Section 1.1206 of the Commission's rules. Please include a copy of this submission in the record of the above-listed proceedings. Also, please stamp and return the provided copy to confirm your receipt. You may contact me at (202) 326-8889 should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Bennett". The signature is fluid and cursive, with a large initial "J" and "B".

Attachment

cc: J. Miller
J. Veach
G. Vadas
T. Navin
S. Jordan

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April 3, 2001

VIA FACSIMILE AND U.S. MAIL

Jennifer Spoehr
Ameritech Corporation
2000 W. Ameritech Center Drive
2H19E
Hoffman Estates, IL 60196

Re: Conversion of Special Access Facilities to Unbundled Network Elements

Dear Jennifer:

We are writing on behalf of VoiceStream Wireless Corporation ("VoiceStream"), who currently purchases from Ameritech Corporation ("Ameritech") Special Access facilities on which VoiceStream provides transport services in Ameritech's region. VoiceStream wishes to convert all such Special Access facilities to Enhanced Extended Links ("EELs"), Unbundled Network Elements ("UNEs"), and/or UNE combinations (collectively, "UNEs"), as appropriate.

Section 251(c)(3) of the Telecommunications Act of 1996 ("1996 Act") requires incumbent local exchange carriers ("ILECs"):

to provide, to any requesting telecommunications carrier for the provision of telecommunications service, nondiscriminatory access to network elements on an unbundled basis at any technically feasible point on rates, terms and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and the requirements of this section and section 252. An [ILEC] shall provide such unbundled

network elements in a manner that allows requesting carriers to combine such elements in order to provide such telecommunications service.¹

In its "Local Competition Order," the Federal Communications Commission ("FCC") explicitly holds that CMRS providers, such as VoiceStream, are "telecommunications carriers," and therefore, "requesting carriers" to whom the benefits of section 251(c) of the 1996 Act enure.² The FCC also confirms that existing combinations of UNEs (including the "EEL") are the "functional equivalent" of special access offerings, and that "requesting carriers" are entitled to obtain them at UNE prices.³

As soon as feasible, VoiceStream wishes to convert its Special Access facilities to EELs, UNEs, and UNE combinations (collectively, "UNEs"), as appropriate. Please review the facilities Ameritech provides VoiceStream throughout Ameritech's region and respond in writing to the following questions, within the next thirty days:

- On a LATA-specific basis, are UNEs available to replace the Special Access facilities VoiceStream currently purchases from Ameritech?
- What, if any, technical differences exist between UNEs and Ameritech's Special Access DSIs that VoiceStream purchases?
- On a state-specific basis, please provide the price of these UNEs and their underlying components. Please consider this a request pursuant to 47 U.S.C. § 251(c)(3).
- Please provide a sample comparison of UNE vs. Special Access pricing for identical 1.544 Mbps. circuits.
- How do the ordering processes for UNEs and Special Access facilities differ? How do ordering intervals differ?

¹ 47 U.S.C. § 251(c)(3).

² *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996: Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket No. 96-98, CC Docket No. 95-185, First Report and Order, 11 FCC Rcd 15499, 15517, (1996) ("Local Competition Order").

³ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Notice of Proposed Rulemaking*, CC Docket No. 96-98, 15 FCC Rcd 3696, 3909-10, (1999).

- Are volume and term discounts available for UNEs?
- What is the process for converting Special Access facilities to UNE pricing? How quickly can such a conversion occur?
- What, if any, penalties exist for early termination of VoiceStream's Special Access facilities, when converting to UNEs? Would non-recurring charges apply?
- Please provide standard contract terms and conditions that would allow VoiceStream to include access to the UNEs necessary to replace Special Access arrangements under its existing interconnection agreements throughout the Ameritech region.

Please do not hesitate to contact Doug Bonner or Elizabeth Dickerson with questions on this matter. In addition, we would appreciate hearing from you if you will be unable to respond to this request, or any specific portion thereof, within thirty days. We look forward to working with you on this matter and will call shortly to discuss.

Sincerely,



Douglas G. Bonner
Elizabeth Dickerson

cc: Mr. Bob Calaff
Ms. Chris Sykes